

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X	:	
WEISS, et al.,	:	
	:	05-CV-04622
Plaintiffs,	:	
	:	
v.	:	
	:	225 Cadman Plaza East
NATIONAL WESTMINSTER BANK,	:	Brooklyn, New York
	:	
Defendant.	:	January 29, 2010
-----X	:	
STRAUSS, et al.,	:	
	:	
Plaintiffs,	:	06-CV-702
	:	07-CV-914
v.	:	07-CV-916
	:	
CREDIT LYONNAIS, S.A.,	:	
	:	
Defendant.	:	
-----X	:	

TRANSCRIPT OF CIVIL CAUSE FOR TELEPHONIC CONFERENCE
BEFORE THE HONORABLE MARILYN D. GO
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Strauss and	JOSHUA D. GLATTER, ESQ.
Weiss Defendants:	AARON SCHLANGER, ESQ.
	ARI UNGAR, ESQ.
	Osen LLC
	700 Kinderkamack Road
	Oradell, New Jersey 07649
	STEPHEN SCHWARTZ, ESQ.
	Kohn, Swift & Graf, P.C.
	One South Broad Street
	Philadelphia, Pennsylvania 19107

(Appearances continue on next page.)

Proceedings recorded by electronic sound recording, transcript
produced by transcription service

1

2

3 APPEARANCES (Continued):

4

5 For the Strauss and
6 Weiss Defendants:

MARK S. WERBNER, ESQ.
Sayles Werbner
1201 Elm Street 44th Floor
Dallas, Texas 75270

7 For Credit Lyonnais:

LAWRENCE B. FRIEDMAN, ESQ.
Cleary Gottlieb
One Liberty Plaza
New York, New York 10066

9

10 Court Transcriber:

RUTH ANN HAGER
TypeWrite Word Processing Service
211 N. Milton Road
Saratoga Springs, New York 12866

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 (Proceedings began at 10:04 a.m.)

2 THE CLERK: Strauss v. Credit Lyonnais, Docket 06-
3 CV-702 and Wolf v. Credit Lyonnais, Docket number 07-CV-914.

4 Will counsel present please state their names for
5 the record? For the plaintiffs?

6 MR. GLATTER: Good morning, Your Honor. Joshua
7 Glatter, Osen LLC on behalf of the Strauss and Weiss
8 plaintiffs joined on this teleconference by Aaron Schlanger
9 and Ari Ungar.

10 MR. SCHWARTZ: Stephen Schwartz, Your Honor, from
11 Kohn, Swift & Graf, Philadelphia, Pennsylvania representing
12 the Strauss and Weiss plaintiffs also.

13 MR. WERBNER: And this is Mark Werbner in Dallas
14 representing the other plaintiffs in these two cases.

15 MR. FRIEDMAN: Your Honor, this is Lawrence Friedman
16 from Cleary Gottlieb on behalf of Credit Lyonnais and, Your
17 Honor, counsel had all spoken before this conference. We had
18 understood this conference would also be in the Weiss and
19 Applebaum cases against National Westminster Bank.

20 THE COURT: Yes. We also had scheduling issues to
21 discuss in that case.

22 MR. FRIEDMAN: Yes. And we're --

23 THE COURT: Can we discuss them together or shall we
24 just start the tape again and just have one transcript for
25 both -- for all of the cases?

1 MR. FRIEDMAN: I think, Your Honor, we can discuss
2 them together.

3 THE COURT: Okay.

4 MR. FRIEDMAN: I spoke yesterday with Mr. Glatter
5 and with Mr. Werbner's colleague, Mr. Israel, and we're
6 prepared to give Your Honor a combined report on where we
7 stand on the Net West cases and the --

8 THE COURT: Okay.

9 MR. FRIEDMAN: -- [inaudible].

10 THE COURT: Okay. And this -- I assume all the
11 attorneys who entered their appearances already are
12 represent -- the plaintiffs' attorneys were representing -- or
13 the Strauss and Wolf plaintiffs are also representing various
14 plaintiffs in the other two cases, the Net West cases.

15 MR. GLATTER: Yes, Your Honor.

16 MR. SCHWARTZ: Yes, Your Honor.

17 THE COURT: So noted. All right. Since you've
18 had -- I assume you've had the benefit of completing the
19 depositions that were still left in the Strauss cases that we
20 discussed at the last conference?

21 MR. FRIEDMAN: Yes, Your Honor. We had in mid-
22 December the two last Credit Lyonnais depositions had been
23 requested. There's one nonparty deposition requested by the
24 plaintiffs which is still outstanding that we have to work out
25 a date for and then we proceeded to exchange the first round

1 of expert reports on December 10. And if Your Honor would
2 like, I can report to Your Honor what the parties propose to
3 do.

4 THE COURT: Yes.

5 MR. FRIEDMAN: From here on out.

6 THE COURT: Okay. Yes. That is certainly one of
7 the scheduling issues we need to discuss in these two cases.

8 MR. FRIEDMAN: Okay. Your Honor, the parties did
9 exchange expert reports on the 10th. The plaintiffs delivered
10 to us five expert reports. One of them had exhibits that were
11 just completed a week or so ago and we had -- Credit Lyonnais
12 served three expert reports.

13 We've been working cooperatively with plaintiffs
14 since then to deal with the fact that the plaintiff's experts
15 have cited to many, many sources, more than 2,000 sources in
16 fact involving hundreds of archived web pages and things of
17 that nature and only a small number of those were actually
18 exhibits to the reports. So we're -- we've been working
19 towards an agreement and, happy to say, we've been working
20 very cooperatively towards an agreement pursuant to which
21 plaintiffs will provide to us the materials that we can't
22 locate. We've been working very hard to locate as many of
23 these 2000 or so materials as we can, but there's some --
24 especially ones on archived web pages and obscure articles and
25 books and things of that nature that we're working with

1 plaintiffs to get copies of and we're also working towards an
2 agreement under which the parties will share the cost of
3 translating these documents. They're overwhelmingly in Hebrew
4 and in Arabic and the Arabic documents present a particular
5 translation difficulty.

6 The net effect is that we need a little bit more
7 time to conclude our agreement but based on my conversations
8 with plaintiffs counsel yesterday, we're expecting soon to
9 make proposal to Your Honor that will push the next date, the
10 date for rebuttals of the December 10 reports out at least 60
11 days because we first have to get the materials and we think
12 it will take about a month or so to translate them and then we
13 have to prepare -- each side has to prepare whatever rebuttal
14 reports they will have. So that would push the February 12th
15 date out perhaps to a date in mid-April. And as I said, we
16 expect to have an agreement pretty soon as to what that will
17 require.

18 On the February 16 reports which were a couple of
19 expert reports from the plaintiffs' side and one from the
20 defense side that the parties under the scheduling order had
21 carved out from the December 10 date, I received a request
22 from plaintiff's counsel last night to push that back two
23 weeks which -- just subject to checking with my client this
24 morning I'm prepared to agree to. So the net effect is that
25 the parties are going to be proposing shortly to Your Honor

1 due dates to replace the February 12 and February 16 dates to
2 complete the exchange of all expert reports and we can then
3 proceed subject to the agreement of the parties to expert
4 depositions.

5 THE COURT: Okay. Well, and that also push back
6 the -- I guess the Court then would push back the rebuttal
7 expert reports, too.

8 MR. FRIEDMAN: Right. That's what we're talking
9 about --

10 THE COURT: The April 15th --

11 MR. FRIEDMAN: -- now.

12 THE COURT: The April -- no, the April 13th date on
13 the third page of the scheduling order.

14 MR. FRIEDMAN: Yes. Yes.

15 THE COURT: Okay.

16 MR. FRIEDMAN: It's the --

17 THE COURT: That's two weeks, right.

18 MR. FRIEDMAN: If the February 16 reports are pushed
19 back two weeks then the --

20 THE COURT: Two weeks.

21 MR. FRIEDMAN: -- April 13th date should be pushed
22 back two weeks, too.

23 THE COURT: Okay.

24 MR. GLATTER: That's correct, Your Honor. Josh
25 Glatter for the Strauss plaintiffs. Mr. Friedman's

1 representations are entirely accurate, Your Honor. There's
2 just two other points I wanted to advise, one on general
3 discovery and one specific to the expert reports, just so that
4 Your Honor has a full picture of where things stand. With
5 respect to expert reports in addition to materials that the
6 experts have cited defendant's counsel, as is often the case,
7 has also requested prior reports and testimony that the ex --
8 the experts that we have already identified and served opening
9 reports are have given in prior litigation. And we have also
10 been working diligently and cooperatively with defense
11 counsel, with the experts to try to obtain that material and
12 provide it to the extent that we can. Sometimes it's the
13 function of getting it from the expert directly but often
14 particularly for experts that have testified in federal
15 terrorism litigation.

16 It's a function of also getting in touch with often
17 prosecutors both in the U.S. and abroad to advise them of the
18 request to -- and to learn whether or not there may be any
19 particular confidentiality issues or protective order issues
20 in those other cases that we then need to alert Mr. Friedman
21 about and we've been doing that. And as we've been receiving
22 materials it's actually being Bates numbered now and that will
23 be produced on a rolling basis. And that also -- the process
24 there because to some extent the -- I can say that the
25 prosecutors and other lawyers have been very cooperative in

1 getting back to us quickly on it. But just the mechanics of
2 getting the material, getting an answer, sometimes it has to
3 be run up the flag pole at DOJ or DHS and then just
4 producing -- mechanically producing the material does also --
5 it's another moving part that the parties are trying to
6 account for in the ultimate revised scheduling proposal.

7 The other more general discovery issue I just wanted
8 to remind Your Honor about purely for overall purposes is that
9 in our last call one of the -- with Your Honor in our last
10 status conference one of the issues that came up was the
11 question as to ultimately what the parties would do, what
12 positions they would take with documents that used to exist
13 but for one reason or another are no longer present. And
14 my -- I apologize because my colleague, Mr. Goelman, has been
15 discussing this directly with Mr. Friedman but was unable to
16 be on the call today.

17 My understanding, and Mr. Friedman will correct me
18 if I'm incorrect, is that I believe Mr. Goelman in a letter
19 made a request to explore the possibility of a forensic
20 examination of some of I guess the hard drives or backup to
21 see if that might flesh out the issue. I suppose that might
22 also -- that might also potentially generate a request for a
23 follow-up 30(b)(6) deposition.

24 Again, the point is not to -- today to say whether
25 that should or shouldn't proceed. I just wanted to alert Your

1 Honor. In fact, that's one of the other areas that the
2 parties are discussing and I expect that however it resolves,
3 you know, either cooperatively or not will be something that
4 will be reflected in the ultimate scheduling order. But,
5 again, Mr. Friedman, if I'm mischaracterizing any of that I
6 greatly appreciate your correcting the record.

7 MR. FRIEDMAN: No. You're not, Josh. And we're
8 considering Aitan's request to have a forensic search done of
9 an email server in France. We're first determining if that
10 server exists and then we're also determining whether it's
11 accessible but you've accurately reported it.

12 So the upshot on the Credit Lyonnais case, Your
13 Honor, is that because of the volume of materials that have
14 been cited by the experts and the time it's taking to get them
15 and to interpret them, I'm confident we're going to be able to
16 reach agreements on all this and in the next week or so we'll
17 submit a revised calendar to Your Honor.

18 THE COURT: Okay. All right. Then we'll see when
19 our next conference will be in one of these cases, but I -- as
20 you know, I had wanted to see if we could tighten up the
21 schedule a little bit with respect to any contemplated Daubert
22 motions but I -- you won't be getting the reports until the
23 end of February at this point or actually at the beginning of
24 March. Right?

25 MR. FRIEDMAN: Actually, the exchange of reports I

1 think that we're now contemplating in light of the time that
2 will be needed for all these documents will be in April or May
3 and --

4 THE COURT: Oh, April 27th.

5 MR. FRIEDMAN: Yeah.

6 THE COURT: That's the -- okay, the rebuttal -- the
7 final rebuttal actually.

8 MR. FRIEDMAN: Yeah. That's right. Then I remember
9 Your Honor's proposal that we then talk about Daubert motion
10 practice. I in my view we're going to have to have
11 depositions of a couple of the experts in order to fully ripen
12 the Daubert issues, but perhaps we could [inaudible] Your
13 Honor for that --

14 THE COURT: Well, okay. I was hoping that after you
15 get the reports you would be in a better position to see if
16 there -- there were any reports that merited a Daubert motion
17 in the first place and perhaps just to eliminate any doubts as
18 to whether or not there would be motions --

19 MR. FRIEDMAN: That's fine, Your Honor. That's
20 fair.

21 THE COURT: -- as to certain aspects. I think that
22 that would also serve a useful function in trying to clarify
23 remaining discovery that needs to be done and seeing if we can
24 get the issues resolved. You know, the substantive motions
25 filed more quickly anyway.

1 MR. FRIEDMAN: Right.

2 THE COURT: But we'll see.

3 MR. FRIEDMAN: I think that's fair, Your Honor.

4 THE COURT: Okay.

5 MR. FRIEDMAN: And on the -- if I may on the Nat
6 West cases --

7 THE COURT: Yes.

8 MR. FRIEDMAN: The parties in the last -- plaintiffs
9 proposed a revised scheduling order to us on Wednesday and we
10 negotiated that through and have provided it to our client and
11 am expecting that next week we'll be able to submit an agreed
12 proposal to Your Honor.

13 THE COURT: So how far behind is that case in
14 discovery?

15 MR. FRIEDMAN: Well, what the plaintiffs have
16 proposed is that the fact discovery deadline in those cases be
17 the end of September.

18 THE COURT: My restrained response to that is wow.
19 Is there a reason for that?

20 MR. FRIEDMAN: There is -- I --

21 THE COURT: For the delay. I'm just trying to get a
22 handle on what's left in fact discovery.

23 MR. SCHWARTZ: Well, in that case, Your Honor --
24 this is Mr. Schwartz -- we still have -- we've only taken a
25 few depositions. There's a lot to go. There are still some

1 outstanding document issues so we actually thought that
2 September was rather an aggressive schedule.

3 MR. GLATTER: And, Your Honor, this is Joshua
4 Glatter again to amplify Mr. Schwartz's comment. To some
5 degree why we perceived it as a more aggressive schedule is at
6 least from our concedingly subjective perspective that West --
7 the Nat West case implicates a broader set of facts and
8 frankly bank customers than is the case in Credit Lyonnais
9 where to date it's really been focused upon CBST. So there is
10 a -- simply is a mechanical exercise. There's a larger
11 universe theoretically of witnesses that might need to be
12 taken for customers apart from Interpal and the counterparties
13 connected to them.

14 It's, of course, possible that -- the other thing I
15 would add is that one desire that we have, though, is that it
16 may very well be that when document production is complete
17 we're in a scenario where when a witness is put on the table
18 it obviates the need as is sometimes occurred in the parallel
19 litigation to then request that the witness be put back on the
20 table as new documents come in because it's how the Royal Bank
21 of Scotland integrates its anti-money laundering and
22 procedures at the parent company level, but there may be a
23 number of witnesses that are in a position to respond to
24 questions concerning a multiplicity of customers rather than
25 simply Interpal. So all -- so the idea being to build enough

1 time into the schedule so that when the depositions go it may
2 be that they proceed at a relatively fast pace but they are
3 teed up to be as efficient as possible. Again, that --

4 MR. WERBNER: Your Honor -- Your Honor, this is Mark
5 Werbner in Dallas for the Wolf and Applebaum plaintiffs. I'll
6 stand by what my colleague have said. I'm not precisely sure
7 but that seems like an awfully long time to me. It would seem
8 that it may be setting it shorter and then if there are
9 complications or problems we could come back to the Court.
10 I'm 55 and I'm a little worried at this pace I may not make it
11 to the end.

12 [Laughter.]

13 MR. FRIEDMAN: Your Honor, this is Larry Friedman.
14 You know, this is an issue for the plaintiffs. They proposed
15 September 30 and we can live with it. I'll just note that it
16 was Mr. Werbner's colleague who proposed that to me on
17 Wednesday.

18 THE COURT: How much document production is left, if
19 any?

20 MR. FRIEDMAN: From our perspective, Your Honor,
21 from Nat West very little, if any. You know, the -- what had
22 happened if I may -- and again, I'm not trying to -- certainly
23 it's not my intent to criticize how anyone from the
24 plaintiffs' side has handled this. And as I've said, they
25 proposed the end of September and I don't object to it but the

1 Nat West depositions have pretty much frozen for the last six
2 months or so while the plaintiffs have focused on completing
3 the Credit Lyonnais depositions and I think that has a lot to
4 do with it.

5 And as Mr. Glatter alluded to, there was an order
6 that Your Honor issued last year requiring that documents
7 about customers other than Interpal be produced, but as far as
8 we're concerned these depositions can start up again. And if
9 the plaintiffs feel they need till the end of September it's
10 not -- I don't really have standing to object to that.

11 MR. GLATTER: Your Honor, Josh Glatter again and I
12 guess if it's slightly awkward conversation because, as Mr.
13 Friedman and Mr. Schwartz commented, the schedule has been --
14 had been presented -- intended to be presented on a mutually
15 consensual basis but to illuminate at least some of the open
16 document issues on our end which we have been -- and to be
17 clear, we've been coordinating with Mr. Friedman and his
18 colleague, Mr. Sheldon. Some of it relates to pure technical
19 issues in trying to get certain data in connection with
20 counterparties who are not customers at the bank try to work
21 out some protocols to be able to access that where -- not to
22 get too technical on it, but my understanding is that one of
23 the interfaces with the -- with the software doesn't
24 necessarily permit text searching. We've been cooperatively
25 working with Mr. Sheldon to try to figure out ways that we can

1 present other information that may allow extraction of that
2 information out of the database. There is also I think --
3 there's been some other materials -- and I should add that
4 the parties have not been sitting on their heels in that
5 regard while trying to help accelerate that process. To the
6 extent that Nat West and RBS have been able to do it, they've
7 been providing extracted data from the raw database on a
8 rolling basis.

9 Again, the point being to put it in practical terms
10 that if there are documents one of the things we've seen are
11 documents where communications concerning Interpal may also
12 reference other customers that may or may not have been on the
13 bank's radar for one reason or another. And our preference is
14 to make sure that when we talk to the witnesses involved that
15 we have complete document production on those customers or
16 counter-parties so that the witness isn't being asked in one
17 set of depositions about Interpal and then being put back on
18 the table weeks or months later to return to another customer.

19
20 There are a few other technical document discovery
21 issues which some of my other colleagues including Mr. Turner
22 have raised with Mr. Friedman and Mr. Sheldon. I have to
23 admit off the top of my head I can't recall them specifically.
24 Again, it's something that -- certain instances were viewed as
25 a schedule to meet and confer on them. But again, the overall

1 point is it may very well be that document discovery is close
2 to being complete for present purposes. There are some things
3 we want to run down but all that went into the parties setting
4 down September as a fact discovery cutoff date.

5 And the only other thing I would add on that --
6 and -- is that based on our experience in Credit Lyonnais
7 where we've had to -- both parties at one time or another have
8 needed to extend the discovery schedule. Nothing is ever
9 perfectly predictable but to the extent we can we try to
10 arrive at an end date that we thought in good faith would
11 hopefully obviate or at least mitigate the need to come back
12 to the Court later on for one reason or another. Again, can't
13 predict that with absolute certainty but that has been the
14 intention of the parties in crafting the schedule.

15 THE COURT: Well, I haven't really kept track of how
16 many revised scheduling orders I've signed in these cases but
17 I think it never hurts to err on the side of a tighter
18 schedule. It would strike me at least with respect to the
19 depositions since you do have witnesses with knowledge about
20 multiple customers that you could try to sort out which
21 witnesses would be more likely to have knowledge about more
22 customers and save those witnesses for later on. I assume
23 some of these witnesses would have overlapping knowledge about
24 the more major customers, *i.e.*, major in terms of this
25 litigation, and get those people deposed first and perhaps you

1 could dispense with having to have very many questions, if
2 any, of the later witnesses on Interpal and some of the other
3 customers. Does that make sense?

4 MR. GLATTER: Your Honor, Josh Glatter speaking for
5 the Strauss plaintiffs. I think that it does. That's
6 actually been something that internally we have been
7 discussing really more from the perspective of Interpal to see
8 whether we can collectively have confidence that there are
9 certain witnesses that are essentially -- their testimony
10 would very likely be segregated to Interpal specific issues
11 and that certainly there's no reason why those can't be teed
12 up relatively sooner enrolling and as well as some follow-on
13 30(b) deponents both at the company level and now really at
14 the parent level beyond the ones that have been taken.

15 I -- one of the issues that one of my colleagues had
16 raised with defense counsel -- and again, it's just a subject
17 that's still under discussion is in the absence of org charts
18 for the banks whether or not that we might be able to come up
19 with a 30(b)(6) witness that might provide some degree of
20 substitution for that. Again, I don't want to represent that
21 that's necessarily the way to handle it or not but it is a
22 type of witness that is under discussion and if we reach
23 agreement on it is, again, probably somebody that could roll
24 without, you know, having a domino effect on the remainder of
25 the discovery and deposition schedule.

1 THE COURT: So having said that, don't you think you
2 could tighten up the schedule a little bit, at least the
3 deadline for completion of fact discovery in the Nat West
4 cases?

5 MR. GLATTER: Your Honor, speaking of mine,
6 since it's I think pretty clear that that is what Your Honor
7 would like us to try to do, what I would suggest is that the
8 parties and -- we'll meet and confer again with Mr. Friedman
9 in the early part of next week and see if we can structure
10 something that reflects that.

11 THE COURT: Okay. And perhaps you should confer
12 with Mr. Werbner before you do that.

13 MR. GLATTER: Oh, absolutely.

14 MR. WERBNER: Thank you, Your Honor.

15 THE COURT: Okay. All right. So you'll send me a
16 proposed scheduling order in the Nat West cases, what, in two
17 weeks? I'm not going to put a deadline because I -- that's
18 unrealistic but I -- I do want to have some sort of control
19 date.

20 MR. GLATTER: Your Honor, Josh Glatter. Again,
21 because Mr. Friedman obviously knows what his clients and
22 potentially prospective witnesses' schedules are and where
23 things may stand on some of the open document production
24 issues, I certainly think that we should be in a position to
25 do it by then. But obviously, I -- you know, I don't want to

1 put words in his mouth or before he's had an opportunity to
2 confer with his client to see, you know, how long it would
3 take on their end to, you know, be able to come back with some
4 reasonable certainty that the schedule is feasible in that
5 regard.

6 MR. FRIEDMAN: Well, Your Honor, we can -- counsel
7 can discuss this --

8 THE COURT: Right.

9 MR. FRIEDMAN: -- separately but it's not really my
10 call. It's --

11 THE COURT: Let me --

12 MR. FRIEDMAN: -- the time that they think they need
13 and I don't even know who the witnesses are that they have in
14 mind but, again, Mr. Werbner's associate sent me something on
15 Wednesday that said September 30 and I didn't feel that I
16 could say no if they felt they needed that amount of time.
17 But I think Mr. Glatter should consult with his colleagues,
18 talk about how many witnesses they're talking about, who they
19 are and, you know, we can then agree on a deadline.

20 THE COURT: Okay. Well, what -- let me just
21 encourage you to send me a proposed schedule by the 18th.

22 MR. FRIEDMAN: Okay.

23 THE COURT: Which I think should give you enough
24 time. And if you can't, call my law clerk Josh to alert him
25 when I can expect it.

1 MR. FRIEDMAN: Okay.

2 THE COURT: Okay. And then we --

3 MR. FRIEDMAN: And I think, Your Honor, if I may
4 within the same time frame we can submit a revised schedule
5 for the Credit Lyonnais cases, too.

6 THE COURT: Okay.

7 MR. GLATTER: Yes. I agree, Your Honor.

8 THE COURT: Okay.

9 MR. FRIEDMAN: All right.

10 THE COURT: So it sounds as if perhaps the -- we
11 should have a next conference in the Credit Lyonnais cases
12 sometime in the middle of May after you've had a chance to
13 look at the rebuttal expert reports.

14 MR. FRIEDMAN: That's fine, Your Honor.

15 THE COURT: Okay. Let's see. How about May 17th?

16 MR. FRIEDMAN: That's fine with me, Your Honor.

17 MR. GLATTER: That's fine for the Strauss plaintiffs
18 and Weiss plaintiffs, Your Honor.

19 MR. WERBNER: That looks good. And this is Mark
20 Werbner. That looks good.

21 THE COURT: Okay. How about 2:00?

22 MR. FRIEDMAN: Shall we do that by phone again, Your
23 Honor?

24 THE COURT: You're more than welcome to do so by
25 phone.

1 MR. WERBNER: That will be fine.

2 THE COURT: Okay. Do you anticipate any disputes
3 arising in either set of cases?

4 MR. WERBNER: I'll defer to Mr. Friedman.

5 [Laughter.]

6 MR. FRIEDMAN: Well, I'm not aware, Your Honor, of
7 any at this moment --

8 THE COURT: Okay.

9 MR. FRIEDMAN: -- but again, I'm not the one seeking
10 discovery so it's --

11 MR. WERBNER: That would be why there would be
12 discovery issue.

13 MR. FRIEDMAN: So it's -- I appreciate Mr. Werbner
14 deferring to me but it's not really my call.

15 THE COURT: Okay.

16 MR. GLATTER: Your Honor, I think we've reached the
17 legal equivalent of checking in poker [Ph.], but off the top
18 at least on the Credit Lyonnais side is the sense there isn't
19 anything particularly live other than some of the issues
20 mentioned earlier that are still meet and conferring on. In
21 the case of Nat West it's again some -- a few other open-ended
22 issues that I think are still under consideration but I think
23 it's fair to say that they haven't developed to the point that
24 they predict motion practices with any degree of certainty
25 though.

1 THE COURT: I don't want to encourage you to engage
2 in motion practice, but obviously you know how to reach me.
3 And if you do, you'll tell me what your proposed schedule for
4 the response will be so I know when to schedule the next
5 conference if we need an earlier conference than May 17th.

6 MR. FRIEDMAN: Okay.

7 THE COURT: Okay?

8 MR. FRIEDMAN: Thank you, Your Honor.

9 MR. WERBNER: Thank you, Your Honor.

10 MR. GLATTER: Thank you, Your Honor.

11 THE COURT: Have a good day.

12 MR. WERBNER: Bye-bye.

13 THE COURT: Bye-bye.

14 (Proceedings concluded at 10:35 a.m.)

15 * * * * *

16

17

18

19

20

21

22

23

24

25

1 I certify that the foregoing is a court transcript
2 from an electronic sound recording of the proceedings in the
3 above-entitled matter.

4 
5

6
7 Ruth Ann Hager

8 Dated: February 1, 2010
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25